

BEFORE THE
BOARD OF ACCOUNTANCY
STATE OF CALIFORNIA

In the Matter of the Petition to)
Revoke Probation Against:)

) No. D1-94-25

ROBERT W. ALLEN,
1017 Lindencliff
Torrance, California 90502,

) OAH No. L-9703217

Certified Public Accountant
Certificate No. 25542,

Respondent.)

PROPOSED DECISION

This matter was heard by Vincent Nafarrete, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on August 5, 1997. Complainant was represented by Karen Donald, Deputy Attorney General. Respondent was present throughout the hearing and represented himself.

Oral and documentary evidence having now been received, the Administrative Law Judge submits this matter for decision on August 5, 1997, and finds as follows:

FINDINGS OF FACT

1. The Administrative Law Judge takes official notice that, on January 16, 1997, the Petition to Revoke Probation was made and filed by Carol B. Sigmann solely in her official capacity as Executive Officer of the Board of Accountancy, Department of Consumer Affairs, State of California (hereinafter Board).

2. (A) On December 2, 1977, the Board issued certified public accountant certificate no. 25542 to Robert W. Allen (hereinafter respondent). Respondent's certificate expired on September 1, 1996, because he did not pay the renewal fee required by Business and Professions Code Section 5070.5 and did not submit evidence of compliance with the continuing education requirements of Business and Professions Code Section 5020 and Title 16, California Code of Regulations, Section 87. As such, respondent's CPA certificate is currently not in full force and effect.

(B) Jurisdiction continues to exist in this matter pursuant to Business and Professions Code Sections 118(b) and 5070.6.

3. (A) Effective on September 6, 1995, before the Board of Accountancy in Case No. AC-94-25, respondent's certificate was revoked, revocation was stayed, and his certificate placed on probation for three years pursuant to a Stipulation in Settlement and Decision. Respondent admitted he was guilty of unprofessional conduct for the preparation of deficient financial statements, engaging in the practice of public accountancy without a valid license or certificate, and practicing public accountancy under an unregistered and unapproved fictitious business name.

(B) Pursuant to said stipulation with the Board, respondent's certificate became subject to the following two terms and conditions of probation:

"2. SUBMIT QUARTERLY REPORTS

Respondent shall submit quarterly written reports to the Board of a form provided by the Board.

"14. COST REIMBURSEMENT

Respondent shall reimburse the Board \$4,000 for its investigation and prosecution costs. The payment shall be made in twelve equal quarterly installments beginning within thirty days of the effective date of the decision and continuing through the three-year term of probation."

While his certificate was on probation to the Board, respondent violated these two conditions of probation as described hereinbelow.

4. Quarterly Probation Reports. (A) Respondent was required to file one-page form reports of probation compliance with the Board ten days following the end of each calendar quarter. Respondent's first quarterly report was required to be submitted to the Board by January 10, 1996. He submitted said written report two days late on January 12, 1996. Respondent's second and third quarterly reports were required to be submitted by April 10, 1996, and July 10, 1996. On September 18, 1996, he submitted both the second quarterly report and the third quarterly report to the Board, which were thus filed five months and two months late, respectively.

(B) On or about February 6, 1997, respondent submitted to the Board the fourth quarterly report which was due to be filed on October 10, 1996, and the fifth quarterly report which was due on January 10, 1997. Both quarterly reports were filed late.

(C) At the hearing in this matter, on August 5, 1997, respondent submitted the sixth quarterly report, which was due on April 10, 1997, and the seventh quarterly report, which was due on July 10, 1997. Both of these quarterly reports were filed late,

(D) Based on Findings 4(A) - 4(C) above, respondent violated Condition No. 2 of the terms and conditions of his probation by failing to submit quarterly probation reports to the Board in a timely manner.

5. Reimbursement of Costs. (A) In order to pay the \$4,000 in costs during the term of his probationary certificate, respondent was required to make twelve payments of \$333.33 at the end of each calendar quarter beginning on September 30, 1995, and ending on June 30, 1998. Respondent paid the first three installments albeit late and untimely.

(B) After paying \$1,000 in costs, respondent failed to make any further costs reimbursement. Respondent failed to pay the \$333.33 that was due and payable on June 30, 1996; September 30, 1996; December 31, 1996; March 31, 1997; and June 30, 1997. As of the date of the hearing in this matter, respondent was approximately \$1,666 in arrears of his costs reimbursement payments.

(C) Based on Findings 5(A) - 5(B), respondent violated Condition No. 14 of the terms and conditions of his probation by failing to reimburse the Board for its investigation and prosecution costs of the prior case.

6. Respondent states he did not file quarterly reports because he did not have the money to pay the costs reimbursement. He states he is chagrined by his inability to pay the costs reimbursement to the Board and would like another chance to fulfill the terms and conditions of his probation. He states he is struggling financially in his business.

7. Respondent is self-employed in his own bookkeeping business. He has three employees including his spouse who supervises the bookkeepers. In his business, respondent provides monthly business or financial statements, balance sheets, and operating statements for small business clients. He also prepares income tax returns for his business clients and represents them before taxing agencies.

8. On or about February 22, 1997, when he filed the late quarterly reports described in Finding 4(B) above, respondent indicated he would bring his costs reimbursement account current by the time the quarterly report was due for the second quarter of this year. Subsequently, respondent failed to file a timely quarterly report for the first and second quarters of this year and has not made any costs reimbursement payments.

9. Respondent did not realize his probationary CPA's certificate had expired in September 1996. He thought said certificate would not expire until 1997.

10. It was not established by respondent that he has the willingness or capability to comply with the terms and conditions of probation.

* * * * *

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

CONCLUSIONS OF LAW

Grounds exist to revoke respondent's probation and carry out the prior disciplinary order that was stayed pursuant to Business and Professions Code Section 5100 in that respondent has violated Conditions Nos. 2 and 14 of the terms and conditions of his probation, as set forth in Findings 4(D) and 5(C) above.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

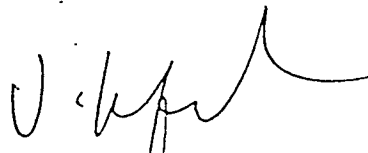
ORDER

1. The previous Order of the Board of Accountancy in Case No. AC-94-25 staying the revocation of certified public accountant's certificate no. 25542 and placing said certificate on probation for three years shall be vacated; the Petition to Revoke Probation in Case No. D1-94-25 shall be sustained.

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2. Certified public accountant's certificate no. 25542 previously issued to respondent Robert W. Allen and revoked and placed on probation pursuant to the Stipulation in Settlement and Decision in Case No. Ac-94-25 shall now be revoked forthwith.

DATED: Sept-19, 1997



VINCENT NAFARRETE
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE
BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to) No. D1-94-25
Revoke Probation Against:)
) OAH No. L-9703217
)
ROBERT W. ALLEN)
1017 Lindencliff)
Torrance, California 90502,)
)
Certified Public Accountant)
Certificate No. 25542,)
)
Respondent.)
_____)

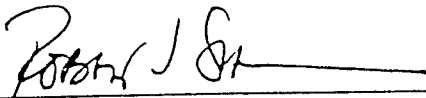
DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Accountancy as its decision in the above-entitled matter.

This Decision shall become effective January 2, 1998.

IT IS SO ORDERED December 3, 1997.

BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 

rfm

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 ROBERT A. HERON, Supervising
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3 Department of Justice
300 South Spring Street, Suite 500
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Telephone: (213) 897-2561

5 Attorneys for Complainant
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7

8 BEFORE THE
BOARD OF ACCOUNTANCY
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
10

11 In the Matter of the Petition to) No. D1-94-25
Revoke Probation Against:)
12)
ROBERT W. ALLEN) PETITION TO REVOKE
13 1017 Lindencliff) PROBATION
Torrance, California 90502)
14 CPA Certificate No. 25542,)
Respondent.)
15)
16

17 Complainant Carol Sigmann, for cause for disciplinary
18 action, alleges:

19 1. Complainant is the Executive Officer of the Board
20 of Accountancy ("Board") and makes and files this petition to
21 revoke probation solely in her official capacity.

22 2. On December 2, 1977, Certified Public Accountant
23 Certificate No. 25542 was issued by the Board to Robert W. Allen
24 ("respondent") for the practice of public accountancy. On
25 September 1, 1996, the certificate expired for failure to pay the
26 renewal fees required by Business and Professions Code section
27 5070.5, and for failure to submit evidence of compliance with the



1 continuing education requirements of Business and Professions
2 Code section 5020 and Title 16, California Code of Regulations
3 section 87.

4 3. Subdivision (b) of Business and Professions Code
5 section 118 provides that the suspension, expiration, or
6 forfeiture by operation of law of a certificate, permit or
7 license does not deprive the Board of authority or jurisdiction
8 to institute or proceed with disciplinary action against the
9 certificate, permit or license during the period within which the
10 certificate, permit, or license may be renewed, restored,
11 reissued or reinstated.

12 Business and Professions Code section 5070.6 provides
13 that an expired certificate or permit may be renewed at any time
14 within five years after its expiration.

15 4. On September 15, 1994, an accusation was filed
16 against respondent being Case No. AC-94-25. On April 7, 1995,
17 respondent stipulated that his license was subject to discipline
18 for violation of Business and Professions Code section 5100(c)
19 for unprofessional conduct in the practice of public accountancy
20 relating to deficient financial statements he prepared for three
21 entities, for violation of Business and Professions Code sections
22 5050 and 5055 for engaging in the practice without a valid
23 license, and for violation of Business and Professions Code
24 section 5100(f) and Title 16, California Code of Regulations
25 section 67 for practicing with an unregistered and unapproved
26 fictitious name. A true and correct copy of the Accusation is
27 / / /

1 attached hereto as "Exhibit A" and incorporated by reference as
2 if fully set forth herein.

3 5. Effective September 6, 1995, respondent's
4 certificate to practice accountancy was revoked by the Board
5 pursuant to respondent's stipulation; however, revocation was
6 stayed, and respondent was placed on probation for three years
7 under terms and conditions. A true and correct copy of the
8 Stipulation in Settlement and Decision is attached hereto as
9 "Exhibit B" and incorporated by reference as if fully set forth
10 herein.

11 Condition 1 of the terms and conditions of probation
12 provides:

13 "Respondent shall obey all federal, California, other
14 U.S. states and local laws including those rules relating to
15 the practice of public accountancy in California."

16 Condition 2 of the terms and conditions of probation
17 provides:

18 "Respondent shall submit quarterly written reports to
19 the Board on a form provided by the Board."

20 Condition 4 of the terms and conditions of probation
21 provides:

22 "Respondent shall cooperate fully with the Board of
23 Accountancy, and any of its agents or employees in their
24 supervision of his compliance with the terms and conditions
25 of this probation including the Board's Probation
26 Surveillance Program."

27 / / /

1 Condition 14 of the terms and conditions of probation
2 provides:

3 "Respondent shall reimburse the Board \$4,000 for its
4 investigation and prosecution costs. The payment shall be
5 made in twelve equal quarterly installments beginning within
6 thirty days of the effective date of the decision and
7 continuing throughout the three-year term of probation."

8 Condition 9 of the terms and conditions of probation
9 provides:

10 "If respondent violates probation in any respect, the
11 Board, after giving respondent notice and an opportunity to
12 be heard, may revoke probation and carry out the
13 disciplinary order that was stayed. If an accusation or
14 petition to revoke probation is filed against respondent
15 during probation, the Board shall have continuing
16 jurisdiction until the matter is final, and the period of
17 probation shall be extended until the matter is final."

18 6. Respondent has subjected his license to discipline
19 under Business and Professions Code section 5100 for violation of
20 the terms and conditions of probation by reason of the following
21 facts:

22 A. Respondent failed to submit timely quarterly
23 reports to the Board for the periods ending:

| | Due | Provided |
|-------------------------------|----------|------------|
| 24 | | |
| 25 Quarterly Report, 12/31/95 | 01/10/96 | 01/12/96 |
| Quarterly Report, 3/31/96 | 04/10/96 | 09/18/96 |
| 26 Quarterly Report, 6/30/96 | 07/10/96 | 09/18/96 |
| Quarterly Report, 9/30/96 | 10/10/96 | Delinquent |
| 27 | | |

1 B. Respondent failed to timely reimburse the Board
2 for its costs of investigation and prosecution in quarterly
3 payments of \$333.33 for the periods ending:

| | Due | Provided |
|------------------------|----------|------------|
| 4 | | |
| 5 Payment #1, 9/30/95 | 10/10/95 | 11/13/95 |
| 6 Payment #2, 12/31/95 | 01/10/96 | 01/12/96 |
| 7 Payment #3, 3/31/96 | 04/10/96 | 9/18/96 |
| 8 Payment #4, 6/30/96 | 07/10/96 | Delinquent |
| 9 Payment #5, 9/30/96 | 10/10/96 | Delinquent |

10 WHEREFORE, Complainant prays a hearing be held on the
11 matters alleged hereinabove and, following said hearing, the
12 Board issue a decision:

13 1. Vacating the order placing Robert W. Allen on
14 probation, revoking his probation in Accusation No. AC-94-25; and

15 2. Vacating the stay of revocation of Certified
16 Public Accountancy Certificate No. 25542, and revoking the
17 certificate heretofore issued to Robert W. Allen:

18 3. Taking such other and further action as the Board
19 may deem appropriate and just.

20 DATED: January 16, 1997

21 Carol Sigmann
22 CAROL SIGMANN
23 Executive Officer
24 Board of Accountancy
25 Department of Consumer Affairs
26 State of California

27 Complainant

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 MICHAEL TANAKA,
Deputy Attorney General, State Bar No. 85026
3 Department of Justice
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4 Los Angeles, California 90013
Telephone: (213) 897-2581
5
6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation)
11 Against:)

NO. AC-94-25

12 ROBERT ALLEN)
1017 Lindencliff)
13 Torrance, CA 90502)

STIPULATION IN
SETTLEMENT AND DECISION

14 CPA No. 25542)

15 Respondent.)
16

17 In the interest of a prompt and speedy settlement of
18 this matter, consistent with the public interest and the
19 responsibility of the Board of Accountancy, Department of
20 Consumer Affairs (Board), the parties submit this Stipulation and
21 Decision to the Board for its approval and adoption as the final
22 disposition of the Accusation.

23 The parties stipulate the following is true:

24 1. An Accusation, No. AC-94-25, is pending against
25 Robert Allen (respondent) before the Board. The Accusation,
26 together with all other statutorily required documents, was duly
27 served on the respondent on or about October 5, 1994, and

1 respondent filed his Notice of Defense (contesting the
2 Accusation) on or about October 14, 1994. A copy of Accusation
3 No. AC-94-25 is appended as Attachment "A" and incorporated by
4 reference as if fully set forth.

5 2. At all times relevant herein, respondent has been
6 licensed by the Board of Accountancy under C.P.A. Certificate No.
7 25542.

8 3. Respondent is not represented by counsel.
9 Respondent understands that he has the right to retain counsel,
10 at his own expense, to represent him in this matter.

11 4. Respondent understands the nature of the charges
12 alleged in the Accusation and that the charges and allegations
13 constitute cause for imposing discipline upon his license to
14 practice accountancy. Respondent is fully aware of his right to
15 a hearing on the charges and allegations contained in said
16 Accusation, his right to reconsideration, appeal and all other
17 rights accorded pursuant to the California Business and
18 Professions Code and Government Code and freely and voluntarily
19 waives such rights.

20 5. Respondent admits the truth of each and every
21 allegation of the Accusation No. AC-94-25, and agrees that
22 respondent has thereby subjected his license to discipline.
23 Respondent agrees to the Board's imposition of penalty as set out
24 in the Order below.

25 6. Admissions made by respondent herein are for
26 purposes of this proceeding, for any other disciplinary
27 proceedings by the Board, and for any petition for reinstatement,

1 reduction of penalty, or application for relicensure, and shall
2 have no force or effect in any other case or proceeding. In the
3 event this settlement is not adopted by the Board, the
4 stipulation will not become effective and may not be used for any
5 purpose.

6 7. In consideration of the foregoing admissions and
7 findings, the parties agree that the shall, without further
8 notice of formal proceeding, issue and enter an Order as follows:

9 ORDER

10 A. IT IS HEREBY ORDERED that C.P.A. certificate number
11 25542 issued to Robert Allen is revoked. However, the revocation
12 is stayed, and respondent is placed on probation for three years
13 on the following terms and conditions:

14 1. OBEY ALL LAWS

15 Respondent shall obey all federal, California, other
16 U.S. states and local laws including those rules relating to the
17 practice of public accountancy in California.

18 2. SUBMIT QUARTERLY REPORTS

19 Respondent shall submit quarterly written reports to
20 the Board on a form provided by the Board.

21 3. PERSONAL APPEARANCES

22 Respondent shall make personal appearances and report
23 to the Administrative Committee at the Board's notification,
24 provided such notification is accomplished in a timely manner.

25 4. COOPERATE WITH PROBATION SURVEILLANCE

26 Respondent shall cooperate fully with the Board of
27 Accountancy, and any of its agents or employees in their

1 supervision of his compliance with the terms and conditions of
2 this probation including the Board's Probation Surveillance
3 Program.

4 5. PRACTICE REVIEW

5 Respondent shall be subject to, and shall permit, a
6 practice investigation of the respondent's professional practice.
7 Such review shall be conducted by representatives of the Board
8 whenever designated by the Administrative Committee, provided
9 notification of such review is accomplished in a timely manner.

10 6. COMPLY WITH CITATIONS

11 Respondent shall comply with all citations.

12 7. TOLLING OF PROBATION FOR OUT-OF-STATE

13 RESIDENCE/PRACTICE

14 In the event respondent should leave California to
15 reside or practice outside this state, respondent must notify the
16 Board in writing of the dates of departure and return. Periods
17 of non-California residency or practice outside the state shall
18 not apply to reduction of the probationary period.

19 8. TOLLING OF PROBATION CONDITIONS/CESSATION OF

20 PRACTICE

21 In the event respondent fails to satisfactorily
22 complete any provision of the order of probation, which failure
23 results in the cessation of practice, all other provisions of
24 probation other than the quarterly report requirements,
25 examination requirements, education requirements, and
26 Administrative Committee appearances, shall be held in abeyance
27 until respondent is permitted to resume practice. All provisions

1 of probation shall commence on the effective date of resumption
2 of practice. Periods of cessation of practice will not apply to
3 the reduction of the probationary period.

4 9. VIOLATION OF PROBATION

5 If respondent violates probation in any respect, the
6 Board, after giving respondent notice and an opportunity to be
7 heard, may revoke probation and carry out the disciplinary order
8 that was stayed. If an accusation or petition to revoke
9 probation is filed against respondent during probation, the Board
10 shall have continuing jurisdiction until the matter is final, and
11 the period of probation shall be extended until the matter is
12 final.

13 10. COMPLETION OF PROBATION

14 Upon successful completion of probation, respondent's
15 license will be fully restored.

16 11. SUSPENSION

17 The certificate shall be suspended for a period of
18 sixty (60) days during which time the respondent shall engage in
19 no activities for which certification as a Certified Public
20 Accountant or Public Accountant is required.

21 12. REVIEW OF FINANCIAL STATEMENTS

22 Respondent shall submit all financial statements
23 prepared during the period of probation to another C.P.A. for
24 review and approval before their release. Respondent shall be
25 responsible for any costs associated with this review.

1 13. CONTINUING EDUCATION COURSES

2 Respondent shall complete 40 hours of professional
3 education courses within two years of the effective date of this
4 decision. This shall be in addition to continuing education
5 requirements for relicensing.

6 Failure to satisfactorily complete the required courses
7 as scheduled or failure to complete same no later than 100 days
8 prior to the termination of probation shall constitute a
9 violation of probation.

10 14. COST REIMBURSEMENT

11 Respondent shall reimburse the Board \$4,000 for its
12 investigation and prosecution costs. The payment shall be made
13 in twelve equal quarterly installments beginning within thirty
14 days of the effective date of the decision and continuing
15 throughout the three-year term of probation.

16 B. Accusation No. AC-94-25 Paragraphs Numbers 1
17 through 14, inclusive, are admitted.

18 C. The within stipulation shall be subject to the
19 approval of the Borad. If the Board fails to adopt this
20 stipulation as its Order, the stipulation shall be of no force or
21 effect for either party.

1 I concur in the stipulation and order.

2 DATED: 2/27/95

3 DANIEL E. LUNGREN, Attorney General
4 of the State of California

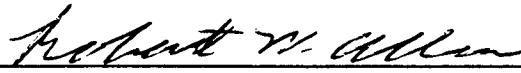
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6 MICHAEL TANAKA
7 Deputy Attorney General

8 Attorneys for Complainant

9 I have carefully read and fully understand the
10 stipulation and order set forth above. I understand that in
11 signing this stipulation I am waiving my right to a hearing on
12 the charges set forth in the Accusation on file in this matter.
13 I am also waiving my right to have an attorney represent me in
14 this matter at my own expense. I further understand that in
15 signing this stipulation the shall enter the foregoing order
16 placing certain requirements, restrictions and limitations on my
17 right to practice accountancy in the State of California.

18 DATED: April 7, 1995

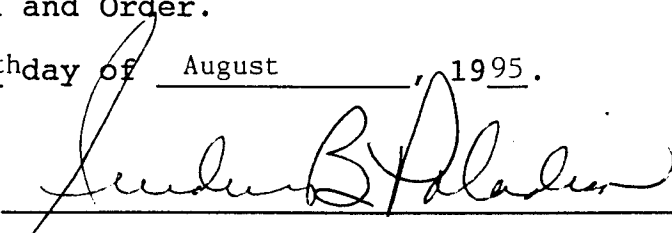
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21 ROBERT ALLEN
22 Respondent

1 DECISION AND ORDER
2 OF THE

3 The foregoing Stipulation and Order, in No. AC-94-25,
4 is hereby adopted as the Order of the California Board of
5 Accountancy, . An effective date of September 6, 1995, has been
6 assigned to this Decision and Order.

7 Made this 7th day of August, 1995.

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9 _____
10 FOR THE BOARD

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1 DANIEL E. LUNGREN, Attorney General
of the State of California
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6 Attorneys for Complainant

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8 **BEFORE THE**
9 **BOARD OF ACCOUNTANCY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation) NO. AC-94-25
13 Against:)
14)
15 ROBERT ALLEN) ACCUSATION
16 1017 Lindencliff)
17 Torrance, CA 90502)
18)
19 CPA Certificate No. 25542)
20)
21 Respondent.)
22)

23 Complainant, Carol B. Sigmann, as cause for
24 disciplinary action, alleges:

25 1. Complainant is the Executive Officer of the
26 California State Board of Accountancy ("Accountancy") and makes
27 and files this accusation solely in her official capacity.

LICENSE STATUS

28 2. On or about December 2, 1977, CPA Certificate No.
29 25542 was issued by the Accountancy to Robert Allen
30 ("respondent"). The certificate expired on September 1, 1988 for
31 nonpayment of the renewal fee and noncompliance with the
32 continuing education requirements. The certificate was in

1 delinquent status from September 1, 1988 through September 5,
2 1991. It is currently in full force and effect.

3 STATUTES

4 3. This accusation is made in reference to the
5 following statutes of the California Business and Professions
6 Code ("Code"):

7 a. Section 5100 provides that the Board may revoke,
8 suspend or refuse to renew any permit or certificate issued
9 by the Board, or may censure the holder of any such permit
10 or certificate for unprofessional conduct

11 b. Section 5100(c) provides that unprofessional
12 conduct includes dishonesty, fraud, or gross negligence in
13 the practice of public accountancy.

14 c. Section 5107 provides, in part, that the Board may
15 request the administrative law judge, as part of the
16 proposed decision in a disciplinary proceeding, to direct
17 any holder of a permit or certificate found in violation of
18 section 5100 (a), (b), (c), (h), (i) or (j), to pay to the
19 Board all reasonable costs of investigation and prosecution
20 of the case, including, but not limited to, attorney's fees.

21 4. This accusation is made in reference to the
22 following regulations of the California Code of Regulations
23 (formerly the California Administrative Code), title 16:

24 a. Section 58.3, Compilation and Review of
25 Financial Statements, provides, in part, that the accountant
26 is required to issue a report conforming to professional
27 standards whenever he completes a compilation or review of

1 the financial statements of a non-public entity. The
2 accountant should not issue any report on the unaudited
3 financial statements of a non-public entity or submit such
4 financial statements to his client or others unless he
5 complies with such professional standards.

6 b. Section 67, Approval of Use of Fictitious
7 Name, provides that no permit holder shall practice as a
8 principal under a name other than his or her own name until
9 such name has been registered with the board and approved by
10 the board as not being false or misleading.

11 FACTS - ALTICO FINANCIAL STATEMENTS

12 5. Respondent Robert Allen is subject to disciplinary
13 action on account of the following:

14 a. Respondent was responsible for the
15 bookkeeping for Altico, dba Marie Calender's, #143, a
16 business owned by Robert and Paul Altieri. Respondent kept
17 the general ledgers and issued monthly statements for
18 Altico. He issued monthly statements for the months of May
19 and June 1990, that were generated by computer. He later
20 issued typewritten, "corrected" statements for those months
21 based on undocumented representations made to him by Robert
22 Altieri.

23 6. Based on the conduct described in paragraph 5,
24 respondent has subjected his certificate to discipline under
25 Business and Professions Code section 5100(c) in the following
26 respects:

27 a. The typed financial statements, which were

1 compiled without audit or review, were not accompanied by a
2 compilation report which indicated the degree of
3 responsibility respondent was taking with respect to the
4 financial report.

5 b. The typed financial statements disagreed with
6 computerized statements and payroll tax returns for the same
7 period also issued by respondent, indicating that respondent
8 did not exercise due professional care in performing
9 services and did not use knowledge gained from prior
10 engagements to realize that information supplied by Altico
11 was incorrect, incomplete, or otherwise unsatisfactory for
12 compiling a financial statement.

13 c. The typed financial statements did not include an
14 income tax provision and the title failed to state that the
15 entity was a partnership.

16 CRENSHAW GOLD EXCHANGE FINANCIAL STATEMENTS

17 7. Respondent prepared financial statements for the
18 months of May and June 1990 for Crenshaw Gold Exchange, a sole
19 proprietorship owned by Robert Altieri. Because Crenshaw Gold
20 Exchange was not a bookkeeping client of respondent's, respondent
21 prepared the financial statement solely from figures given to him
22 by Robert Altieri. Respondent never examined any source material
23 or documentation such as general ledgers, balance sheets,
24 operating statements or cash flows, before issuing the financial
25 statements.

26 8. Based on the conduct described in paragraph 7,
27 respondent has subjected his certificate to discipline under

1 Business and Professions Code section 5100(c) in the following
2 respects:

3 a. The typed financial statements, which were
4 compiled without audit or review, were not accompanied by a
5 compilation report which indicated the degree of
6 responsibility respondent was taking with respect to the
7 financial report.

8 b. The typed financial statements contained
9 significant differences and omissions when compared to
10 calendar 1989 information available as the result of prior
11 engagements, indicating that respondent did not exercise due
12 professional care in performing services and did not use
13 knowledge gained from prior engagements to realize that
14 information supplied by Robert Altieri was incorrect,
15 incomplete, or otherwise unsatisfactory for compiling a
16 financial statement.

17 c. The typed financial statements did not include an
18 income tax provision and the title failed to state that the
19 entity was a sole proprietorship.

20 OTHER FINANCIAL STATEMENTS PREPARED BY RESPONDENT

21 9. Respondent uses a computer generated form for the
22 financial statements that he issues under the name of
23 Comprehensive Business Services. These statements omit
24 substantially all disclosures required by generally accepted
25 accounting principles, are undated and unsigned.

26 10. Based on the conduct described in paragraph 9,
27 respondent has subjected his certificate to discipline under

1 Business and Professions Code section 5100(c) in the following
2 respects:

3 a. The computer generated statements omit virtually
4 all disclosures required by generally accepted accounting
5 principles. They do not contain professionally mandated
6 language indicating that the reports were compiled without
7 disclosure and warning users that inclusion of those
8 disclosures might influence the user's conclusions about the
9 company's financial position and that the statements are not
10 designed for those who are not informed about such matters.

11 b. The computer generated statements are in violation
12 of generally accepted accounting principles in that they
13 fail to contain a date as of when the compilation was
14 completed.

15 c. The computer generated statements are unsigned in
16 violation of generally accepted accounting principles.

17 EXPIRED LICENSE

18 11. Respondent's certificate expired on September 1,
19 1988 for nonpayment of the renewal fee and noncompliance with the
20 continuing education requirements. The certificate was in
21 delinquent status from September 1, 1988 through September 5,
22 1991. During this period of delinquency, respondent practiced
23 public accountancy and held himself out as a C.P.A.

24 12. Based on the conduct described in paragraph 11,
25 respondent has subjected his certificate to discipline under
26 Business and Professions Code sections 5050 and 5055 in that he
27 engaged in the practice of public accountancy without a valid

1 permit and held himself out as a C.P.A. when he did not have a
2 valid permit to practice.

3 UNAPPROVED FICTITIOUS NAME

4 13. Respondent practiced public accountancy under the
5 name of Comprehensive Business Services. This fictitious
6 business name has never been registered with or approved by the
7 Board.

8 14. Based on the conduct described in paragraph 13,
9 respondent has subjected his certificate to discipline under
10 Business and Professions Code section 5100(f) in that he
11 willfully violated Title 16, California Code of Regulations,
12 Section 67 which prohibits practice by a permit holder under a
13 name other than his or her own name unless the name has been
14 registered with the Board and approved by the Board as not being
15 false or misleading.

16 WHEREFORE, complainant requests that the Board hold a
17 hearing on the matters alleged herein, and that following said
18 hearing, the Board issue a decision:

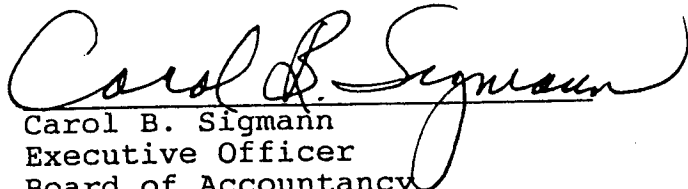
- 19 1. Revoking or suspending CPA Certificate Number
20 25542, heretofore issued to respondent Robert
21 Allen;
22 2. Directing respondent Robert Allen to pay to the
23 Board a reasonable sum for its investigative and
24 enforcement costs of this action; and

25 //

26 //

1
2 3. Taking such other and further action as the deems
3 appropriate to protect the public health, safety
4 and welfare.

5 DATED: September 15, 1994
6

7 
8 Carol B. Sigmann
9 Executive Officer
10 Board of Accountancy
11 Department of Consumer Affairs
12 State of California

13 Complainant
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